IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.292 OF 2001
Along with
Civil Application No.389 9f 2001

Babu Fakira More, .. Appellant.

Versus

Rambhau @ Ramchandra Yesu Stalkar, .. Respondent.

Mr P.P.Tendulkar with Mr M.S.Karnik, for the appellant.
Mr K.S.Patil with Mr P.N.Joshi for the respondent.

CORAM : **D.B.BHOSALE,J.**
DATE : 12/02/2007
PC:

1. Heard the learned counsel for the parties.

2. This appeal is directed against the judgment and decree of the court below by which the plaintiff's suit for declaration that he has one-half share in the well and electric motor pump and for perpetual injunction restraining the respondent/defendant from obstructing his right to take water, stands dismissed. Mr.Tendulkar, learned counsel for the appellant, submitted that the agreement dated 22.4.1975, which created right in favour of the appellant to take one-half share in the well water and electric motor has been discarded solely on the ground that the document was not registered. He submitted that the agreement was

in respect of the movable property and hence the registration was not necessary. I perused the judgments of the courts below. The courts below, after having considered the entire material on record, have recorded a categoric finding that the appellant has failed to prove that he contributed for digging the well and installation of the motor pump. It is further held that the appellant-plaintiff could not prove that since prior to 1975 he was in use and enjoyment of his share in the disputed well. These being the concurrent findings of facts and as I find that there is sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this court under section 100 of the Code of Civil Procedure to disturb the findings of fact, this second appeal deserves to be dismissed. Even if it is assumed that the registration of the document was not necessary that, by itself, is not sufficient to hold that the defendant-plaintiff has share in the well water and the electric pump. No substantial question of law is involved in the present appeal. Hence, the appeal is dismissed. As a consequence thereof, the civil application stands dismissed.

(D.B.BHOSALE,J.)